

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1088 of 2000

to

FIRST APPEAL No 1097 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

SPL.LAQ OFFICER

Versus

ZALA GHANSHYAMSINH BHAVANSANGJI

Appearance:

MR ND GOHIL, AGP with MR PR NANAVATI for Appellants

MR AJ PATEL for Respondent No. 1

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.C.PATEL

Date of decision: 14/12/2000

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. These are appeals under Section 54 of the Land Acquisition Act read with Section 96 of the Civil Procedure Code at the instance of the State and the acquiring body.

2. The appellants herein challenge the common judgment and awards of the Reference Court under Section 18 of the Land Acquisition Act.

3. The lands in question were acquired for the Narmada Main Canal Project and are situated in the village Vidaj, Taluka Kadi, District Mehsana. The relevant Notification under Section 4 of the said Act was published on (the last date of publication) 3rd September, 1991.

4. We have heard the learned counsel for the respective parties, and have perused such oral and documentary evidence to which our attention has been drawn. The records and proceedings of the Reference Court are also made available to us.

5. As a result of the hearing and discussion, we find that the difference between the contesting parties in terms of valuation of the acquired lands is rather small. We find that according to the respondents original claimants the market value of the acquired lands should not be assessed at less than Rs.27/-, as against the valuation determined by the Reference Court at Rs.28/- per sq. mtr. As against this, the appellants contend that the market value ought not to be assessed at any figure exceeding Rs.26.20 paise.

6. We find that the difference between the two sides is in reality a small figure.

7. As a result of the hearing and discussion, we are required to determine the market value of the acquired lands on the basis of the evidentiary material on record. However, learned counsel for both sides have made it clear that they do not require reasons for our determination of such market value.

8. In the limited context of the present controversy before us, we have taken into consideration the oral evidence of one of the claimants at Exh.9, and also that

of one Mr. Solanki at Exh.28. Similarly, we have considered the documentary evidence at Exhs.10 to 16, 17 and 18, which however we do not consider strictly relevant for the purpose of determination of market value.

9. However, Exh.19 we consider relevant. This is an earlier award by Reference Court under Section 18, wherein lands of an adjoining village Dudhai were acquired for the purpose of ONGC under a notification under Section 4 dated 11th December, 1986. The Reference Court had determined the market value at Rs.21/- per sq. mtr., and as per the oral evidence on record, this award was accepted by the State and the acquiring body, and no appeal was filed therefrom.

10. Our attention has been drawn to a decision of an earlier bench of this court in First Appeal No.6079 of 1999 decided on 8th August, 2000 (Coram: M.H. Kadri and D.P. Buch, JJ.). In the said decision, we find that the acquisition in question was from the lands situated in the very same village namely, Vidaj. In the said decision, the very same earlier award under Section 18 which is found at Exh.19 in the instant case had been relied upon by the Reference Court in that case, and therefore it was the very Exh.19 which was relevant material for consideration in the case before the earlier bench. On considering the said decision as a whole and particularly with reference to paragraphs 10 and 11 of the said decision, we find that Exh.19 has both been upheld and also relied upon. Thus, it could not possibly be urged in the instant case that Exh.19 is either not deserving of consideration as appropriate evidence, or that the valuation arrived at by the Reference Court under Exh.19 should not be accepted.

11. In the light of such evidentiary material on record, we find that interest of justice would be served by determining the market value of the instant lands at Rs.26.60 paise per sq. mtr. We hold accordingly.

12. Consequently, the impugned judgment and awards shall stand modified only to the aforesaid extent.

13. Decree accordingly.

13.1 It is clarified that the land holders - original claimants will be entitled to all statutory allowances due to them on the basis of the market value found by us hereinabove.

14. No other contentions are raised.

15. These appeals are therefore partly allowed with no orders as to costs.

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